IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 1497 OF 2004

IN

CRIMINAL APPEAL NO. 444 OF 2004

Islam @ Kaliyabhai Laik Qureshi .. Applicant

versus

State of Maharashtra .. Respondents

...

Mr.Majeed Memon for the applicant.

Mr. R.Y.Mirza APP for the State.

CORAM : V.M. KANADE, J

DATED : 26th October 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on behalf of the State.

2. The applicant is convicted by the trial Court u/s.366 & u/s.376 of the IPC and is sentenced to

undergo RI for seven years and 8 years respectively. The prosecution case is that the appellant committed rape on the prosecutrix who is a minor girl in the night of 10th June 2002 at 3.00 a.m. According to the prosecution, the age of the prosecutrix was between 10 to 12 years. From the medical evidence, it can be seen that no injures were noticed on her private parts and there was no swelling or the abrasion anywhere. The doctor has also given an opinion that there was no injury or swelling on the posterior wall of hymen and the hymen was intact. The applicant is in jail for the last 1 1/2 years.

3. Under the circumstances, the applicant be released on bail in the sum of Rs.5,000/- with one or two sureties. The applicant shall report to Nirmal Nagar Police station once in a week.

V.M. KANADE, J